



NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1173

RIN 3136-AA42

Processes and Procedures for Issuing Guidance Documents

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Final rule; removal of regulations.

SUMMARY: This document rescinds the National Endowment for the Humanities' rule governing the issuance of guidance documents.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Deputy General Counsel, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606-8322; gencounsel@neh.gov.

SUPPLEMENTARY INFORMATION:

1. Background

On September 14, 2020, the National Endowment for the Humanities (NEH) published a final rule governing the issuance of guidance documents entitled “Processes and Procedures for Issuing Guidance Documents” (85 FR 56525). The rule implemented the directives set forth in E.O. 13891 of October 9, 2019 (Promoting the Rule of Law Through Improved Agency Guidance Documents).

E.O. 13992 of January 20, 2021 (Revocation of Certain Executive Orders Concerning Federal Regulation), revokes E.O. 13891 and directs the heads of agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof implementing or enforcing E.O. 13891, as appropriate and consistent with applicable law, including the

Administrative Procedure Act, 5 U.S.C. 551 *et seq.* In accordance with E.O. 13992, NEH is issuing this final rule, which rescinds the rule published at 85 FR 56525.

2. Compliance

Administrative Procedure Act of 1946

Under the Administrative Procedure Act, an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(A). This final rule merely conforms NEH's internal policy and procedures to the directives set forth in E.O. 13992. Accordingly, NEH has concluded that there is good cause to publish this rule without prior public notice and comment.

E.O. 12866 Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review

This action is not significant under E.O. 12866.

E.O. 13771 Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an E.O. 13771 regulatory action because this action is not significant under E.O. 12866.

E.O. 13132 Federalism

This rulemaking does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

E.O. 12988 Civil Justice Reform

This rulemaking meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988. Specifically, this final rule is written in clear language designed to help reduce litigation.

E.O. 13175 Indian Tribal Governments

Under the criteria in E.O. 13175, NEH evaluated this final rule and determined that it will not have any potential effects on Federally recognized Indian Tribes.

E.O. 12630 Takings

Under the criteria in E.O. 12630, this rulemaking does not have significant takings implications. Therefore, a takings implication assessment is not required.

Regulatory Flexibility Act of 1980

This rulemaking will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

Paperwork Reduction Act of 1995

This rulemaking does not impose an information collection burden under the Paperwork Reduction Act. This action contains no provisions constituting a collection of information pursuant to the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year.

National Environmental Policy Act of 1969

This final rule will not have a significant effect on the human environment.

Small Business Regulatory Enforcement Fairness Act of 1996

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties. Accordingly, it is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996), and the reporting requirement of 5 U.S.C. 801 does not apply.

E-Government Act of 2002

All information about NEH required to be published in the Federal Register may be accessed at <https://www.neh.gov>. The website <https://www.regulations.gov> contains electronic dockets for NEH's rulemakings under the Administrative Procedure Act of 1946.

Plain Writing Act of 2010

To ensure this final rule was written in plain and clear language so that it can be used and understood by the public, NEH modeled the language of this final rule on the Federal Plain Language Guidelines.

List of Subjects in 45 CFR 1173

Administrative practice and procedure.

PART 1173 [REMOVED AND RESERVED]

For the reasons stated in the preamble, and under the authority of 5 U.S.C. 301; 20 U.S.C. 956 and E.O. 13992, the National Endowment for the Humanities removes and reserves 45 CFR part 1173.

Dated: May 10, 2021.

Elizabeth Voyatzis,

Deputy General Counsel, National Endowment for the Humanities.

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